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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,154	03/29/2004	Mark Steven Infalt	6003-0001	2484

7590                  03/03/2005

INDIANO VAUGHAN ROBERTS & FILOMENA, LLP  
Suite 850  
One North Pennsylvania Street  
Indianapolis, IN 46204

EXAMINER
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LEGESSE, NINI F

ART UNIT	PAPER NUMBER
	3711

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/812,154	INFALT, MARK STEVEN
	Examiner Nini F. Legesse	Art Unit 3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 March 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 17-20 is/are allowed.
- 6) Claim(s) 1,2,4-8 and 10-15 is/are rejected.
- 7) Claim(s) 3,9 and 16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/06/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Specification*

The abstract of the disclosure is objected to because the abstract is over 150 words. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 5-8, 10-13 and 15** are rejected under 35 U.S.C. 102(b) as being anticipated by Stewart (US Patent No. 3,698,721).

**With regards to claim 1,** Stewart discloses a golf training aid comprising an adjustable stand (see Fig. 2) comprising a first pad connector (combination of 39 and 40); and a swing pad having a flat front surface (42) and comprising a first attachment spot (the middle section wherein the elements are intersecting as shown in Figs. 2 and 6).

**With regards to claim 2,** the adjustable stand comprises a base (1), a first arm having a proximal end and a distal end (9), and a second arm having a proximal end and a distal end (30), the proximal end of said first arm being coupled to said base, the distal end of said first arm being coupled to the proximal end of said second arm, and said first pad connector being coupled to the distal end of said second arm (see Fig. 2).

**With regards to claim 5,** Stewart discloses wherein the adjustable stand further comprises a first adjustable elbow comprising a first leg, a second leg and an adjustable connector including all the limitations of the claim (25 and 35).

**With regards to claim 6,** the first leg of the first adjustable elbow is rotateable about said first arm (see Fig. 2).

**With regards to claim 7,** Stewart discloses wherein the adjustable stand further comprises a second adjustable elbow comprising a first leg, a second leg and an adjustable connector including all the limitations of the claim (34 and 35).

**With regards to claim 8,** the swing pad is rotateable about said second arm (see Fig. 2).

**With regards to claim 10,** the first arm is adjustable in length (9 and see column 2, lines 23-27).

**With regards to claim 11,** the second arm is adjustable in length (31 and see column 3, lines 1-12).

**With regards to claim 12,** the second arm is rotateable about said base (see Fig. 2 and ball and socket joint 6 will allow the arm to rotate about the base).

**With regards to claim 13,** the swing pad is rotateable about said second arm (elements 34 and 35 will allow the pad to rotate about second arm 30).

**With regards to claim 15,** any area on the pad connector (combination of 39 and 40) could be considered as a second attachment spot.

**Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Czaja (US Patent No. 6,582,319).**

**With regards to claim 1,** Czaja discloses a golf training aid comprising an adjustable stand (11 and see column 5 lines 18-33) comprising a first pad connector (guide wires, chains, telescopic mechanisms, or screw jacks as stated in column 5, lines 19-21); and a swing pad (1) having a flat front surface and comprising a first attachment spot (for example see Fig. 1).

**With regards to claim 14,** Czaja discloses a plurality of win apertures (61).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart in view of Shofner (US Patent No. 5,071,130).**

Stewart discloses the invention as recited above but fails to show a base that includes a reference scale. Shofner teaches the use of a reference scale on a mat-type device (see Fig. 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a reference scale on the Stewart's base device so that a golfer could experiment as to the best placement of the ball to achieve optimum results

when hitting the ball with various clubs with a given stance so as to optimize a "natural swing" of the golfer as stated in column 1 lines 12-16 of the Shofner's reference.

***Allowable Subject Matter***

**Claims 17-20** are allowed.

**Claims 3, 9 and 16** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: the prior art of record fail to teach a base wherein the front side is thicker than the rear side, a bifurcated adjustable elbow, and a training aid with two adjustable elbows including a swing pad that has a plurality of wind apertures, when affixed in the manner claimed in combination with the other recited features.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9:30 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nini F. Legesse

02/24/05